

Application No. 10/633,893  
Amendment dated September 18, 2006  
Reply to Office Action of June 20, 2006

## **REMARKS**

### **Status Of Application**

Claims 1-31 are pending in the application; the status of the claims is as follows:

Claims 3-31 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 1-31 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-8 of co-pending Application No. 10/957,899.

Claims 1-31 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-22 of co-pending Application No. 10/460,908.

### **Specification Amendments**

Changes were made to paragraphs [0028], [0038], [0039] and [0052] to correct typographical errors. The changes are not necessitated by the prior art, are unrelated to the patentability of the invention over the prior art, and do not introduce any new matter.

### **Claim Amendments**

Claim 3 has been amended to more particularly point out and distinctly claim the subject matter of the invention. Claims 14, 16, 17, 28, 30 and 31 were amended to correct typographical errors. The changes are not necessitated by the prior art, are unrelated to the patentability of the invention over the prior art, and do not introduce any new matter.

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### **35 U.S.C. § 112 Rejection**

The rejection of claims 3-31 under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, is respectfully traversed based on the following.

Claim 3 is rejected under 35 U.S.C. § 112, because “the claim fails to require amounts of each of the alkali metals which is required by the instant disclosure in amounts at least 0.1%.” Prior to the present amendment, claim 3 recited *inter alia* “ $R_2O$  compounds in amounts sufficient to obtain a mixed alkalai effect.” Paragraph [0019] of specification states that to achieve a mixed-alkali effect, “it is preferable that the lower limit of the content of each alkali metal oxide be 0.1%.” Thus, claim 3 implicitly included a limitation that each such compound be present in an amount of at least 0.1%. Accordingly, the 35 U.S.C. § 112 rejection is not warranted.

Nevertheless, to make the limitation explicit and to move the application to allowance, claim 3 is amended to recite “ $R_2O$  compounds in amounts sufficient to obtain a mixed akali effect, where  $R = Li, Na, \text{ and } K$ , *wherein each  $R_2O$  compound present accounts for at least 0.1% by weight and total  $R_2O$  is not more than 15% by weight.*” It is respectfully submitted that the amendment overcomes the rejections under 35 U.S.C. § 112.

Accordingly, it is respectfully requested that the rejection of claims 3-31 under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, be reconsidered and withdrawn.

### **Double Patenting Rejections**

A terminal disclaimer prepared and executed in accordance with 37 CFR § 1.321 and MPEP § 804.02 is submitted herewith with respect to the provisional rejections of

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claims 1-31 under the judicially created doctrine of double patenting over:

claims 1-8 of co-pending Application Serial No. 10/957,899; and  
claims 1-22 of co-pending Application Serial No. 10/460,908.

It is respectfully submitted that the Terminal Disclaimers overcome the provisional double patenting rejections.

### **CONCLUSION**

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Sidley Austin LLP Deposit Account No. 18-1260.


If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee,

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and not submitted herewith should be charged to Sidley Austin LLP Deposit Account  
No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

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